

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

QUINTA SANDERS,)	
)	
Plaintiff,)	
)	
vs.)	Case No.: 1:18-CV-00269
)	
MISSISSIPPI COUNTY, MISSOURI, CITY)	
OF CHARLESTON, MISSOURI, CORY)	
HUTCHESON, SALLY YANEZ, RYAN)	
HILL, JOE ROSS, JOSH MALDONADO,)	
DECOTA MCGLOTHLIN, FAITH)	
ALTAMIRANO, ROBERT HEARNES,)	
CURTIS ARNOLD, ZACHARY MATNEY,)	
AND AUSTIN HENSON,)	
)	
Defendants.)	

***DEFENDANT CORY HUTCHESON’S MEMORANDUM IN
SUPPORT OF HIS MOTION FOR LEAVE TO FILE MOTION TO
DETERMINE SUFFICIENCY OF PLAINTIFF’S RESPONSES TO
MISSISSIPPI COUNTY DEFENDANTS AND DEFENDANT CORY
HUTCHESON’S JOINT FIRST REQUESTS FOR ADMISSION
AND MOTION TO COMPEL INTERROGATORY ANSWERS WITH
EXHIBITS UNDER SEAL***

COME NOW, Cory Hutcheson (“Defendant Hutcheson”), and for his Memorandum in Support, states:

STANDARD OF REVIEW

A district court’s determination to seal filings is reviewed for an abuse of discretion. *IDT Corp v. eBay, Inc.*, 709 F.3d 1220, 1223 (8th Cir. 2013) (internal citation omitted).

DISCUSSION

This Court’s first inquiry is whether the proposed submissions are considered “judicial records.” *Laughlin v. Stuart*, No. 19-cv-2547 (ECT/TNL), 2021 U.S. Dist. LEXIS 69356, at *6 (D. Minn. Apr. 9, 2021). “[T]he Eighth Circuit has recognized ‘a modern trend in federal cases to treat pleadings in civil litigation (*other than discovery motions and accompanying exhibits*) as presumptively public, even when the case is pending before judgment.” *Id.* (internal citations omitted) (emphasis from *Laughlin*); *see also Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 n.19 (1984) (“Jurisdictions that require filing of discovery materials customarily provide that trial courts may order that the materials not be filed or that they be filed under seal.”) (citing Fed. R. Civ. P. 26(c) and other sources); *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2009) (“The public policies that support the right of access to dispositive motions, and related materials, do not apply with equal force to non-dispositive materials.”) (internal citation omitted); *Baxter Int’l, Inc. v. Abbott Labs.*, 297 F.3d 544, 545 (7th Cir. 2002) (“Secrecy is fine at the discovery stage, before the material enters the judicial record); *Orthopaedic Hosp. v. DJO Glob., Inc.*, No. 3:19-cv-00970-JLS-AHG, 2020 U.S. Dist. LEXIS 240913, at *3 (S.D. Cal. Dec. 22, 2020) (“For discovery documents attached to non-dispositive motions, ‘the usual presumption of the public’s right of access is rebutted.’”) (internal citations omitted).

Here, granting leave to allow the parties to file the motion to determine sufficiency / compel briefing and exhibits under seal is supported by good cause as it would serve to protect the parties from annoyance, embarrassment, and oppression based on the contents of what is being requested and the potential answers to those requests. The sensitive information is supported by the motion, memorandum in support, and accompanying exhibits/discovery

materials. Examples of information pertain to autopsy records, portions of autopsy photographs, and other sensitive information.

WHEREFORE, Defendant Hutcheson respectfully request that this Court grant leave such that the parties may file briefing and accompanying exhibits/discovery materials pertaining to the determination of the sufficiency of Plaintiff's responses to requests for admission and regarding whether Plaintiff should be compelled to respond to interrogatories, and for such further relief this Court deems just and proper.

/s/ Robert T. Plunkert

Peter J. Dunne #31482MO

Robert T. Plunkert #62064MO

PITZER SNODGRASS, P.C.

Attorneys for Defendant Cory Hutcheson

100 South Fourth Street, Suite 400

St. Louis, Missouri 63102-1821

(314) 421-5545

(314) 421-3144 (Fax)

I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following or U.S. mail for parties not registered with CM/ECF, on this 29th day of April, 2021:

Samuel M. Wendt
Nick Hillyard
Wendt Law Firm, P.C.
4717 Grand Avenue, Suite 130
Kansas City, Missouri 64112
sam@wendtlaw.com
nick@wendtlaw.com
Attorney for Plaintiff

A.M. Spradling, III
Spradling & Spradling
1838 Broadway
P.O. Drawer 1119
Cape Girardeau, Missouri 63702
albert@spradlaw3.com
*Attorney for Defendants Mississippi County,
Sally Yanez, Ryan Hill, Joe Ross, Josh
Maldonado, Decota McGlothlin, and Faith
Altamirano*

Michael G. Hoskins *pro hac vice*
Law Office of Michael G. Hoskins, P.C.
3200 West End Avenue, Suite 500
Nashville, Tennessee 37203
mgh@michaelghoskins.com
Attorney for Plaintiff

D. Keith Henson
Paule and Camazine, P.C.
165 N. Meramec Avenue, Suite 100
Clayton, Missouri 63105
khenson@pcblawfirm.com
*Attorney for Defendants City of Charleston,
Robert Hearnese, Curtis Arnold, Zachary
Matney, and Austin Hensen*

/s/ Robert T. Plunkert
